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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,391	01/11/2002	Mark Peyser Friedlander III	2929-425	5494
7590	11/26/2004		EXAMINER	
NIXON & VANDERHYE P.C. 1100 North Glebe Road, 8th Floor Arlington, VA 22201			SEMUNEGUS, LULIT	
			ART UNIT	PAPER NUMBER
			3641	

DATE MAILED: 11/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/042,391	FRIEDLANDER, MARK PEYSER	
	Examiner	Art Unit	
	Lulit Semunegus	3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 05 August 2004.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-17 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-9 and 13-17 is/are rejected.

7) Claim(s) 10-12 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

1. The notice of appeal filed on August 5, 2004 is withdrawn in light of the following reasons.  
Applicant's argument regarding Vetter et al (4,458,482) is acknowledged. Applicant argues that Vetter et al does not teach an exposed combustible strip formed of a non-explosive and non-pyrotechnic material secured to or formed as part of the exterior surface but teaches a bare patch. The exposed "strip" of Vetter is formed as part of the exterior surface of the case. The fact that it is a bare patch does not teach away from claim 1, since the bare patch has the same function as applicant's invention to prevent interior pressure from reaching a dangerous level and causing explosive destruction. Examiner has also added two more references that teach at least claim 1.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless - (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Vetter et al (4,458,482). Vetter et al teach a rocket motor (10) containing propellant (17) enclosed in a case (13), which presents an explosion hazard when subjected to external heat, the improvement comprising: an exposed combustible strip (15) formed of a non-explosive and non-pyrotechnic material formed as part of the exterior surface of the casing (fig. 4 or 5); said strip (15) being constructed to burn and generate sufficient heat when exposed to predetermined external heat to weaken the adjacent portion of the case and effect rupture of the case to vent interior gases therein prior to auto ignition of the propellant or

explosive (col. 2, lines 38-47) wherein the strip (5) is in contact with the exterior surface of the case (fig. 1).

4. Claims 1, 2, 4 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Brogan (5,129,326). Brogan teaches a rocket motor containing propellant enclosed in a case (11), which presents an explosion hazard when subjected to external heat, the improvement comprising: an exposed combustible strip (25) formed of a non-explosive and non-pyrotechnic material formed as part of the exterior surface of the casing (col. 5, lines 14-35); said strip (25) being constructed to burn and generate sufficient heat when exposed to predetermined external heat to weaken the adjacent portion of the case and effect rupture of the case to vent interior gases therein prior to auto ignition of the propellant or explosive (col. 2, lines 38-47) wherein the strip (25) is in contact with the exterior surface of the case and exposed to the propellant (11, fig. 3).

5. Claims 1-7 and 14 -16 are rejected under 35 U.S.C. 102(e) as being anticipated by Bischoff (3,357,356). Bischoff teaches a rocket motor containing propellant enclosed in a case (10), which presents an explosion hazard when subjected to external heat, the improvement comprising: an exposed combustible strip (18,20) formed of a non-explosive and non-pyrotechnic material formed as part of the exterior surface of the casing (figs. 1-3); said strip (18,20) being constructed to burn and generate sufficient heat when exposed to predetermined external heat to weaken the adjacent portion of the case and effect rupture of the case to vent interior gases therein prior to auto ignition of the propellant or explosive (22) wherein the strip (18,20) is in contact with the exterior surface of the case (figs. 1-3).

In regards to claims 5-7, Bishcoff inherently teaches metallic strips (col. 2, lines 8-16) where welding is known to be applied to join metals, which are circumferentially spaced (20) or longitudinally spaced (18) relation on the exterior surface of the case.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject

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matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8,9,13 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bischoff (3,357,356) in view of Vetter et al (4,478,151). Bischoff, teach all the limitations of claims 8,9,13 and 17 except the combustible strip being spaced in various ways in relation to the exterior surface of the case. Vetter et al '151 teach plurality of strips (30) in space relation thereon (fig. 1,6,8) and wherein the strips are in circumferentially and longitudinally spaced in relation to the exterior surface of the case and are in the form of rings mounted in spaced relation on the exterior surface of the case (fig. 5). At the time of the invention it would have been obvious to one ordinary skilled in the art to have the strip placed in different various ways since applicant has not disclosed that placing the strips circumferentially, longitudinally or completely around the casing solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the strips placed in all the above location of the case.

#### ***Allowable Subject Matter***

6. Claims 10-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lulit Semunegus whose telephone number is (703) 306-5960. The examiner can normally be reached on Mon-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on (703) 306-4198. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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11/18/04

Lulit Semunegus  
Examiner  
Art Unit 3641

MICHAEL J. C. [Signature]  
SUPERVISORY PATENT EXAMINER